

Bureau of Health Care Quality and Compliance

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: NVS4862HHA	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED 05/10/2011
NAME OF PROVIDER OR SUPPLIER A GENTLE CARE MEDICAL SERVICES		STREET ADDRESS, CITY, STATE, ZIP CODE 2450 CHANDLER AVENUE, STE 14 LAS VEGAS, NV 89120		
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H 00	<p>INITIAL COMMENTS</p> <p>This Statement of Deficiencies was generated as a result of a abbreviated Focused State Relicensure Survey conducted at your agency on 5/10/11, in accordance with Nevada Administrative Code, Chapter 449 Home Health Agencies.</p> <p>The findings and conclusions of any investigation by the Health Division shall not be construed as prohibiting any criminal or civil investigations, actions, or other claims for relief that may be available to any party under applicable federal, state, or local laws.</p> <p>Five patient files were reviewed. One home visit was conducted. Eight employee files were reviewed.</p> <p>The following deficiencies were identified:</p>	H 00		
H128	<p>449.770 Governing Body; Bylaws</p> <p>3. The governing body shall appoint an advisory group of professional personnel, including one or more members who are practicing physicians, one or more professional registered nurses and representatives from other professional disciplines as indicated by the scope of the agency's program.</p> <p>This Regulation is not met as evidenced by: Based on document review and staff interview, it was determined the agency governing body failed to appoint members to the advisory group of professional personnel that included representatives from the professional disciplines as indicated by the scope of the agency's program.</p> <p>Scope: 3 Severity: 2</p>	H128		

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TITLE

(X6) DATE

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

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H129	<p>449.770 Governing Body; Bylaws</p> <p>4. The governing body is responsible for periodic administrative and professional evaluations of the agency. This Regulation is not met as evidenced by: Based on document review and staff interview, the agency governing body failed to provide for annual administrative and professional evaluations of the agency.</p> <p>The Director was asked to provide a copy of the annual agency evaluation. The Director was unable to provide evidence of an agency evaluation.</p> <p>Scope: 3 Severity: 2</p>	H129			
H140	<p>449.779 Professional Advisory Group</p> <p>1. The professional advisory group must be appointed by the governing body and shall assist in establishing written policies covering skilled nursing, other therapeutic services and other aspects of professional health. These policies must be reviewed at least annually and revised as necessary, and must cover the following: (a) The scope of services offered; (b) Administrative records; (c) Personnel qualifications and responsibilities; and (d) The evaluation of programs. This Regulation is not met as evidenced by: Based on document review and staff interview, the agency failed to provide for the yearly evaluation of the agency program by the professional advisory group as required by statute.</p> <p>The Director was asked to provide a copy of the</p>	H140			

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H140	Continued From page 2 annual agency evaluation. The Director was unable to provide evidence of an agency evaluation. Scope: 3 Severity: 2	H140			
H141	449.779 Professional Advisory Group 2. The professional advisory group must include at least one member who is a practicing physician, one professional registered nurse, representatives from other professional disciplines as indicated by the scope of the agency's program and two members who are representatives of the general public served by the agency. At least one member of the advisory group may not be an owner or employee of the agency. The administrator or his designee shall attend all meetings of the advisory group. This Regulation is not met as evidenced by: Based on document review and staff interview, the agency failed to include on the professional advisory group representatives from all professional disciplines as indicated by the scope of the agency's program. Review of the professional advisory group roster provided by the Director revealed no representation by a Certified Nurses Aid, Occupational Therapy, Speech Therapy, Dietician or Community Member. Scope: 3 Severity: 2	H141			
H142	449.779 Professional Advisory Group 3. The advisory group shall meet at regular	H142			

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H142	Continued From page 3 intervals, but at least once a year. Dated minutes must reflect an evaluation of overall agency performance, including the availability of services, the utilization of services and the quality of services. Recommendations must be forwarded to the governing body. This Regulation is not met as evidenced by: Based on documentation review and staff interview, the agency failed to provide for a professional advisory group to meet at least yearly to evaluate and review the agency operation as required by statute. The Director was asked to provide a copy of the minutes from the professional advisory group meetings. The Director was unable to provide evidence that the group met at least yearly. Scope: 3 Severity: 2	H142			
H151	449.782 Personnel Policies A home health agency shall establish written policies concerning the qualification, responsibilities and conditions of employment for each type of personnel, including licensure if required by law. The written policies must be reviewed as needed and made available to the members of the staff and the advisory groups. The personnel policies must provide for: 5. Job descriptions for each category of personnel which are specific and include the type of activity each may carry out; This Regulation is not met as evidenced by: Based on record review and interview, it was determined that the agency failed to include a job description in the personnel file for 7 of 8 employee files reviewed. (Employees #1, #2, #4, #5, #6, #7 and #8)	H151			

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H151	Continued From page 4 Review of employee files revealed a lack of job descriptions for Employees #1, #2, #4, #5, #6, #7 and #8. Interview with the Director revealed that she was not aware of the missing documentation. Scope: 3 Severity: 2	H151			
H152	449.782 Personnel Policies A home health agency shall establish written policies concerning the qualification, responsibilities and conditions of employment for each type of personnel, including licensure if required by law. The written policies must be reviewed as needed and made available to the members of the staff and the advisory groups. The personnel policies must provide for: 6. The maintenance of employee records which confirm that personnel policies are followed; This Regulation is not met as evidenced by: NRS 449.179 Initial and periodic investigations of criminal history of employee or independent contractor of certain agency or facility. 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall: (a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in NRS 449.188 < http://www.leg.state.nv.us/NRS/NRS-449.html >; (b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);	H152			

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H152	<p>Continued From page 5</p> <p>(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and</p> <p>(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).</p> <p>2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188</p> <p><http://www.leg.state.nv.us/NRS/NRS-449.html>.</p> <p>3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall ensure that the criminal history of each employee or independent contractor who works at the agency or facility is investigated at least once every 5 years. The administrator or person shall:</p> <p>(a) If the agency or facility does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;</p>	H152			

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H152	<p>Continued From page 6</p> <p>(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and</p> <p>(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.</p> <p>4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188</p> <p><http://www.leg.state.nv.us/NRS/NRS-449.html> and immediately inform the Health Division and the administrator of, or the person licensed to operate, the agency or facility at which the person works whether the employee or independent contractor has been convicted of such a crime.</p> <p>5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency or a facility that submits fingerprints pursuant to this section for the reasonable cost of the investigation. The agency or facility may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency or facility requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.</p> <p>(Added to NRS by 1997, 442; A 1999, 1946</p> <p><http://www.leg.state.nv.us/Statutes/70th/Stats199912.html>; 2005, 2170</p> <p><http://www.leg.state.nv.us/Statutes/73rd/Stats200521.html>)</p>	H152			

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H152	Continued From page 7 Based on record review and staff interview, the agency failed to provide criminal background checks and a signed affidavit of felony conviction for employees as required by statute for 3 of 8 employees. (Employees #2, #7 and #8) Review of personnel files revealed that Employees #2 and #7's employee files lacked documented evidence that the employees had signed affidavits of felony convictions. Review of Employee #8's personnel file revealed a lack of documentation that the results of the background checks done from the employees fingerprints, dated 4/23/09. Interview with the Director revealed that there had been no follow up to check on the status of the background check with the Department of Public Safety. Scope: 2 Severity: 2	H152			
H153	449.782 Personnel Policies A home health agency shall establish written policies concerning the qualification, responsibilities and conditions of employment for each type of personnel, including licensure if required by law. The written policies must be reviewed as needed and made available to the members of the staff and the advisory groups. The personnel policies must provide for: 7. The annual testing of all employees who have contact with patients for tuberculosis pursuant to NAC 441A.375; and This Regulation is not met as evidenced by: Sec. 10. NAC 441A.375 is hereby amended to read as follows: 441A.375 1. A case having tuberculosis or suspected case considered to have tuberculosis	H153			

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H153	<p>Continued From page 8</p> <p>in a medical facility or a facility for the dependent must be managed in accordance with the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.</p> <p>2. A medical facility, a facility for the dependent or a home for individual residential care shall maintain surveillance of employees of the facility or home for tuberculosis and tuberculosis infection. The surveillance of employees must be conducted in accordance with the recommendations of the Centers for Disease Control and Prevention for preventing the transmission of tuberculosis in facilities providing health care set forth in the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.</p> <p>3. Before initial employment, a person employed in a medical facility, a facility for the dependent or a home for individual residential care shall have a:</p> <p>(a) Physical examination or certification from a licensed physician that the person is in a state of good health, is free from active tuberculosis and any other communicable disease in a contagious stage; and</p> <p>(b) Tuberculosis screening test within the preceding 12 months, including persons with a history of bacillus Calmette-Guerin (BCG) vaccination.</p> <p>If the employee has only completed the first step of a 2-step Mantoux tuberculin skin test within the preceding 12 months, then the second step of the 2-step Mantoux tuberculin skin test or other single-step tuberculosis screening test must be administered. A single annual tuberculosis screening test must be administered thereafter, unless the medical director of the facility or his designee or another licensed physician</p>	H153			

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H153	<p>Continued From page 9</p> <p>determines that the risk of exposure is appropriate for a lesser frequency of testing and documents that determination. The risk of exposure and corresponding frequency of examination must be determined by following the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (h) of subsection 1 of NAC 441A.200.</p> <p>4. An employee with a documented history of a positive tuberculosis screening test is exempt from screening with skin tests or chest radiographs unless he develops symptoms suggestive of tuberculosis.</p> <p>5. A person who demonstrates a positive tuberculosis screening test administered pursuant to subsection 3 shall submit to a chest radiograph and medical evaluation for active tuberculosis.</p> <p>6. Counseling and preventive treatment must be offered to a person with a positive tuberculosis screening test in accordance with the guidelines of the Centers for Disease Control and Prevention as adopted by reference in paragraph (g) of subsection 1 of NAC 441A.200.</p> <p>7. A medical facility shall maintain surveillance of employees for the development of pulmonary symptoms. A person with a history of tuberculosis or a positive tuberculosis screening test shall report promptly to the infection control specialist, if any, or to the director or other person in charge of the medical facility if the medical facility has not designated an infection control specialist, when any pulmonary symptoms develop. If symptoms of tuberculosis are present, the employee shall be evaluated for tuberculosis.</p> <p>Based on employee file review, the facility failed to ensure compliance with chapter 441A of Nevada Administrative Code for 6 of 8 employee records that were reviewed.</p>	H153			

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H153	Continued From page 10 (Employee #1, #3, #4, #6, #7 and #8). Review of employee files for Employees #1, #3, #4, #6, #7 and #8 revealed the following: Employees #1, #3, #4 and #6 personnel files lacked documented evidence of a prehire physical that met the guidelines as required by statute. The physical was either missing or completed greater than six months prior to the date of hire. Employee #3's employee file lacked documented evidence of a current tuberculin skin test, the last one recorded in the file was dated 2/17/10. Employee #1's personnel file lacked documented evidence that the employee had completed the signs and symptoms questionnaire for Tuberculosis as required by statute for a history of positive tuberculin testing. Employee #8's personnel file lacked documented evidence of a positive tuberculin test preceding the chest X-ray as required by statute. Employee #7's personnel file revealed a prehire physical that did not contain the phrase "person is in a state of good health, is free from active tuberculosis and any other communicable disease in a contagious stage", as required by statute. Scope: 3 Severity: 2	H153			
H180	449.793 Evaluation by Governing Body 6. The governing body shall provide for a quarterly review of 10 percent of the records of patients who have received services during the preceding 3 months in each services area. The members of the committee must include an	H180			

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H180	<p>Continued From page 11</p> <p>administrative representative, a physician, a registered nurse and a clerk or librarian who keeps records. The clerk or librarian shall review the clinical records to ensure that they are complete, that all forms are properly filled out and that documentation complies with good medical practices. The committee shall determine whether the services have been provided to the patients in an adequate and appropriate manner by all levels of service. The committee shall record any deficiencies and make necessary recommendations to the administrator. If the branch offices are small, two or more offices may establish one committee to review cases from each are. Each subunit agency must establish a committee to review cases within its area. Minutes of the committee's meetings must be documented and available for review.</p> <p>This Regulation is not met as evidenced by: Based on document review and staff interview, the agency failed to provide a physical therapist, occupational therapist, speech therapist, social worker, dietician and a clerk or librarian on the committee responsible for the quarterly review of patient clinical records.</p> <p>The agency also failed to review 10% of the records from the last quarter patients served as required by statute. The agency provided services for 183 patients during the quarter, but reviewed only six records.</p> <p>Interview with the Director revealed that she was not aware of the requirement for the personnel representing the scope of the agency's services to be represented on the committee responsible for the review of clinical records. She was also not aware of the requirement of the quantity of records that required review.</p>	H180			

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H180	Continued From page 12 Scope: 3 Severity: 2	H180			
H195	<p>449.800 Medical Orders</p> <p>2. Initial medical orders, renewals and changes of orders for skilled nursing and other therapeutic services submitted by telephone must be recorded before they are carried out All medical orders must bear the signature of the physician who initiated the order within 20 working days after receipt of the oral order.</p> <p>This Regulation is not met as evidenced by: Based on clinical record review and agency policy review, the agency failed to obtain signatures on physician's orders for 2 of 5 patient records reviewed. (Patient #1 and #2)</p> <p>Patient #1's start of care was 3/31/11. The plan of care dated 3/31/11 did not have a physician signature present as required by statute. The verbal order for physical therapy frequencies and plan of care dated 4/1/11, did not have a physician signature present as required by statute.</p> <p>Patient #2's start of care was 2/15/11. The verbal order for physical therapy frequencies and plan of care dated 2/16/11 did not have a physician signature present as required by statute.</p> <p>Scope: 2 Severity: 2</p>	H195			

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